

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA**

<b>IN RE:</b>	<b>PROPULSID PRODUCTS LIABILITY LITIGATION</b>	:	<b>MDL NO. 1355</b>
		:	
		:	<b>SECTION: L</b>
		:	
<b>THIS DOCUMENT RELATES TO ALL CASES</b>		:	<b>JUDGE FALLON</b>
		:	<b>MAG. WELLS ROBY</b>

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**JOINT REPORT NO. 77 OF PLAINTIFFS'  
AND DEFENDANTS' LIAISON COUNSEL**

Plaintiffs' Liaison Counsel (PLC) and Defendants' Liaison Counsel (DLC) jointly submit this Joint Report No. 77 in preparation of the August 20, 2009 Monthly Status Conference. To participate via telephone, dial-in information may be accessed on the Court's website at <http://propulsid.laed.uscourts.gov/>.

**I. State Liaison Counsel/MDL Resolution Program II**

The enrollment requirements have been met for the State Settlement Program (Propulsid II). Escrow Agreements have been executed and Defendants have funded the various funds. The claims, medical records and claimant memoranda deadlines have passed. Administrative claims are being processed and disbursements have begun. The Special Master's Office has begun clearing claims for defense briefing, and the defendants have begun submitting defense memoranda. One hundred thirty-six (136) claims have been submitted to the Medical Panel for review, of which defendants have treated 133 on an expedited basis (these numbers are current

through August 13, 2009). No claim has been found eligible. The SLC will submit a detailed report to the Court prior to the Status Conference. The parties will be prepared to discuss this further at the July 29, 2009 Monthly Status Conference.

## **II. MDL Mediation and Resolution Program**

The deadline for enrollment and the submission of Claim Forms for the First MDL Resolution Program has expired.

The Special Master's office continues to review Claims Forms to determine if the Forms meet the qualifying criteria for submission to the Medical Panel set forth in the Term Sheet. The Special Master's office advises that it will be submitting a Status Report to the Court in advance of the monthly status conference. The Special Master continues to notify the attorneys for the claimants that have deficiencies. Thus far, in Propulsid I, the Special Master has submitted 3,121 Tier I, II and III claims to the Medical Panel for review. Of the 3,126 claims the Defendants have treated 2,690 on an expedited basis. Twenty-four (24) of the tiered claims submitted to the Panel have been found eligible by the Panel, and the Special Master has made those awards. One hundred six (106) tiered claims are still in review by the Panel, 94 of which are considered expedited by the Defendants. (All numbers in this paragraph are current through August 13, 2009.)

A training session for the newly agreed upon Medical Panel Replacement member took place with the Special Master and the Court on July 16, 2009. The Special Master has asked the parties for additional nominations for the Panel. On Friday, August 14, 2009, Defendant submitted its nomination to the Special Master and PSC.

On July 8, 2009, the Special Master filed a Motion for Order to Aid in the Implementation of the Propulsid Resolution Programs. The parties await further direction from the Court with respect to the motion.

On April 29, 2008 the Court entered an Order regarding the waiver of the 6% MDL assessment fee as to those claimants found eligible by the Medial Panel. As for those claimants who have already received awards as of April 14, 2008 and whose awards were subject to the 6% assessment, the Clerk of the Court remitted a check to the Special Master to reimburse those claimants for such assessment and further, the balance of the awards, the holdback 50% of the award, was paid out from the Settlement Fund to each claimant that was found eligible for an award, and who had previously received 50% of their award.

Defendants continue to submit a list of plaintiffs/claimants whose records have already been obtained by defendants in whole or in part, so when necessary, the parties, the Special Master and the attorneys for these plaintiffs/claimants can expedite the submission and review of the Claim Forms for these individuals.

The Special Master is evaluating the Tiered Claims and has preliminarily concluded that a significant number of them are essentially Administrative Claims. They will be processed as such after they have been reviewed.

The parties have agreed on a select number of cases that will be subject to a second review, 9 of which have been deemed eligible for awards.

The parties have agreed on a new investment for the Settlement Fund and will be prepared to discuss this further at the monthly status conference on August 20, 2009.

The weekly telephone conference with the Special Master, PLC, DLC and SLC continues to take place to discuss a number of administrative issues germane to the Resolution Program.

There are approximately 1,412 enrolled Tiered Claims yet to be sent to the Panel in Propulsid I, and 416 enrolled Tiered claims in Propulsid II. The parties will be prepared to discuss these issues further at the July 29, 2009 Monthly Status Conference.

**III. Attorney's Fees Issues**

The PSC will be filing a motion and the Court will address the attorney fees issue at a later date.

Respectfully submitted,

/s/ Monique M. Garsaud

**JAMES B. IRWIN, T.A. (La. Bar No. 7172)**  
QUENTIN F. URQUHART, JR. (La. Bar No. 14475)  
KIM E. MOORE (La. Bar No. 18653)  
MONIQUE M. GARSAUD (La. Bar. No. 25393)  
IRWIN FRITCHIE URQUHART & MOORE, LLC  
400 Poydras Street, Suite 2700  
New Orleans, Louisiana 70130  
Phone: (504) 310-2100  
Fax: (504) 310-2101  
**LIAISON COUNSEL FOR Defendants,  
JANSSEN, L.P. AND JOHNSON & JOHNSON**

DRINKER BIDDLE & REATH LLP  
THOMAS F. CAMPION  
SUSAN M. SHARKO  
500 Campus Drive  
Florham Park, NJ 07932-1047  
Phone: (973) 549-7300  
Fax: (973) 360-9831

**-and-**

DRINKER BIDDLE & REATH, LLP  
CHARLES F. PREUSS  
50 Fremont Street, 20<sup>th</sup> Floor  
San Francisco, CA 94105-2235  
Phone: (415) 591-7500  
Fax: (415) 591-7510  
**CO-LEAD COUNSEL FOR Defendants,**

**JANSSEN, L.P. AND  
JOHNSON & JOHNSON**

/s/ Leonard A. Davis

**RUSS M. HERMAN, T.A. (La. Bar #6819)**

LEONARD A. DAVIS, #14190

JAMES C. KLICK, #7451

HERMAN GEREL, LLP

820 O'Keefe Avenue

New Orleans, Louisiana 70113

Phone: (504) 581-4892; Fax: (504) 561-6024

**LIAISON COUNSEL FOR PLAINTIFFS**

DANIEL BECNEL, JR.

106 W. Seventh Street

Reserve, LA 70084-0508

Phone: (504) 536-1186

Fax: (504) 536-6445

JAMES DUGAN

650 Poydras Street

Suite 2150

New Orleans, LA 70130

Phone: (504) 648-0180

Fax: (504) 648-0181

ARNOLD LEVIN

510 Walnut Street, Suite 500

Philadelphia, PA 19106-3875

Phone: (215) 592-1500

Fax: (215) 592-4663

STEPHEN B. MURRAY

909 Poydras Street, Suite 2550

New Orleans, LA 70112

Phone: (504) 525-8100

Fax: (504) 584-5249

J. MICHAEL PAPANTONIO

316 S. Baylen Street, Suite 600

P.O. Box 12308

Pensacola, FL 32581

Phone: (850) 435-7000

Fax: (850) 435-7020

CHRISTOPHER A. SEEGER

One William Street

New York, NY 10004

Phone: (212) 584-0700

Fax: (212) 584-0799

BOB F. WRIGHT

556 Jefferson Street, Suite 500

Lafayette, LA 70502-3668

Phone: (337) 233-3033

Fax: (337) 232-8213

CHARLES S. ZIMMERMAN  
651 Nicollet Mall  
Suite 501  
Minneapolis, MN 55402  
Phone: (612) 341-0400  
Fax: (612) 341-0844  
**PLAINTIFFS' STEERING COMMITTEE**

**CERTIFICATE OF SERVICE**

I hereby certify that the above and foregoing Joint Report No. 77 of Plaintiffs' and Defendants' Liaison Counsel has been served upon all parties by electronically uploading the same to LexisNexis File & Serve, and that the foregoing was electronically filed with the Clerk of Court of the United States District Court for the Eastern District of Louisiana by using the CM/ECF system which will send a Notice of Electronic Filing on this 18<sup>th</sup> day of August, 2009.

**/s/ Monique M. Garsaud**

**UNITED STATES DISTRICT COURT  
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**Monthly Status Conference**  
**August 20, 2009 – 1:30 p.m.**

**AGENDA**

**Current Matters:**

1. State Liaison Counsel
2. MDL Mediation & Resolution Program
3. Attorney’s Fees Issues